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65TH CONGRESS, 1st Session } SENATE { DOCUMENT No. 33

SENATE PRECEDENTS ON CONFERENCE REPORTS

A STATEMENT

OF THE ACTION OF THE SENATE ON CONFERENCE REPORTS TAKEN FROM "PRECEDENTS AND DECISIONS ON POINTS OF ORDER" COMPILED BY HENRY H. GILFRY

U. S. Congress. Senate

PRESENTED BY MR. STONE

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SENATE PRECEDENTS ON CONFERENCE REPORTS.

GILFRY'S PRECEDENTS.

[Vol. 1, p. 292.]

In the Nineteenth Congress, first session, May 19, 1826:

The Senate instructed its conferees to agree to the House proposition on the amendment of the Senate to the bill making appropriations for carrying into effect the treaty with the Creek Indians. (S. Jour., p. 372.)

[Par. 28, pp. 293, 294.]

In the Thirty-eighth Congress, second session (J., pp. 268–269, March 1, 1865):

The Senate instructed its conferees in specific terms. (Cong. Globe, pp. 1225–1228, 1267; Cong. Globe, pp. 4246–4248.

[Par. 30.]

In the Forty-second Congress, third session (J., pp. 554–557, Mar. 3, 1873):

Motion to recommit with instructions held not to be in order. (P. 294.)

[Par. 35, pp. 298-300.]

General practice in the Senate is against instructions, although within the matter of this paragraph two instructions to conferees were given by a vote of the Senate in each case.

[Vol. I, pp. 347, 348, par. 103.]

Motion to recommit with instructions held not to be in order. By a vote of the Senate to sustain the Chair that the motion to recommit with instructions was in order, the yeas were 11, the nays 47.

[Vol. 1, pp. 350, 351.]

106. If one House has acted on a report, its managers thereby being discharged, the other House may not recommit the report to its managers.

January 21, 1887. In the House of Representatives the conference report on the interstate commerce bill was under discussion. Mr. Dunham, of Illinois, moved that the report be recommitted to the committee of conference. Mr. Hammond, of Georgia, raised a point of order that this acrion was not in order. Speaker Carlisle ruled as follows: "At the last session of Congress a committee of conference was appointed on the disagreeing votes of the two Houses on the bill known as the interstate commerce bill. That committee, as the House has been officially notified, has reported to the Senate, and its report has been agreed to by that body. After that action of the Senate, the report of the committee of conference was made to this body, and it is now before the House for consideration, and the previous question has been ordered upon it. In the first place, a motion to recommit is a motion to recommit to the entire committee of conference, as a matter of course, and not merely to the managers on the part

of the House. But there is, in fact, no committee of conference on this bill now in existence. The whole committee having reported to the Senate, and the Senate having disposed of the report, the committee was dissolved, so far as the Senate is concerned, the general rule being that a select committee is dissolved by its report. Otherwise a select committee once created would become of necessity a standing committee, and matters could be constantly referred to it, notwithstanding it had fully reported upon the particular matter which it was originally formed to consider. In addition to that the Chair is not aware of any parliamentary law or practice which authorizes the recommitment of a conference report. The consideration of conference reports is governed by different rules, in many respects, from all other legislative proceedings in the House. Such reports can not be laid on the table, as has been frequently decided, nor can they be amended, as has also been frequently decided; and the only question which can be taken upon them is to agree to them as an entirety or to postpone their consideration, for the obvious reason that a refusal to agree is of itself substantially equivalent to a commitment to another conference committee, the old one being dissolved by its report to the two Houses. The motion to recommit, therefore, the Chair thinks is out of order." (See Cong. Record, 49th Cong., 2d sess., pp. 880, 881; H. J., 333, 334.)

June 28, 1902. In the House of Representatives the conference report on the District of Columbia appropriation bill was under consideration. Mr. Pearre, of Maryland, arose to a parliamentary inquiry and asked if the report might be recommitted to the committee of conference. Speaker Henderson replied: "That would be in this case impossible, since the Senate has agreed to the report and their conferees are thereby discharged. The remedy is to vote the conference report up or down. If the report is voted down, consideration of the amendments will be in order." (See Cong. Record, 57th Cong., 1st sess., p. 7599; H. J., pp. 865–871.)

[Vol. 2, par. 5, p. 119.]

A motion to agree to the conference report first in order before entertaining a motion to recommit.

In the Sixty-third Congress, second session, March 10, 1914:

The Vice President (Mr. Marshall). The Chair is of the opinion, of course, that it is in order to recommit a conference report; but the Chair, as now constituted, is of the opinion that the original motion to agree to the conference report is first in order. This does not prevent its being sent back to conference if the original motion is not adopted. (Cong. Record., pp. 4590–4592.)

11. A motion may be made to instruct the conferees on items in dispute, after the conference report has been agreed to. (Pp. 121, 122, June 24, 1914.)

The Vice President (Mr. Marshall). Certain items in disagreement between the two Houses have been agreed to by the conferees; certain items, six of them, are still in dispute. As to the items that have been agreed to, there is not any question that the uniform rulings of the occupants of this chair have been that is the first motion that comes up, and that it is the duty of the Senate either to concur in or to refuse to concur in the items which have been agreed upon, and that must be as a whole. If the Senate refuses to concur they go back,

of course, for reconsideration, and then it is possible for instructions to be given to the conferees by the Senate. After the question of agreeing to the conference report has been determined by the Senate, then the motion of the Senator from Montana will be in order, to instruct the conferees with reference to the items that are yet in dispute between them. (Cong. Record, p. 12009.)

12. A motion to recommit a conference report with instructions not in order. (Pp. 122, 123, Oct. 5, 1914.)

The VICE PRESIDENT (Mr. Marshall). The Chair, upon investigation of the entire course of procedure in the Senate of the United States, has discovered that the Senate has done about everything with reference to conference reports. It has rereferred them with instructions; it has rereferred them without instructions; it has laid them on the table; it has indefinitely postponed the consideration of such reports. Precedents could be found, the Chair thinks, for ruling upon either side of the question. The Chair, however, believes the Senate of the United States voted for a full and free conference upon the question of this bill. To send it back to the committee with instructions would not be a full and free conference. The Chair thinks that to send it back to the committee with such instructions would be simply to serve notice upon the House of Representatives and upon the conferees that the bill must be in certain particulars as the Senate of the United States has determined it should be or that there should be no bill.

* * * * * * *

The Chair desires to state that he does not believe that when the Senate has voted for a full and free conference it can return the bill to the conferees with instructions as to what they shall do touching an agreement between the two Houses.

* * * * * * *

By concurring in the conference report, if the Senate desires to concur in it, and if not, by rejecting the conference report, whereupon the matter (after the long discussion) will go back to carry a full and free conference and the conferees will know the objections the Senate of the United States has to the conference report. (Cong. Record, p. 16167.)

[P. 123, Oct. 5, 1914.]

Mr. REED. I make the motion now that the conference report be recommitted.

The VICE PRESIDENT (Mr. Marshall). The motion is before the Senate.

After some discussion.

The VICE PRESIDENT (Mr. Marshall). The pending question was, of course, and has been for days, on agreeing to the conference report. The Senator from Missouri now moves to recommit the bill to the conferees. The Chair, in the course of a week, has examined most of the decisions of the Senate of the United States upon the question. There have been some rulings against the recommittal of a conference report, but the great majority of the rulings are to the effect that if the Senate chooses so to do it can recommit a conference report. The Chair holds the motion to recommit without instructions to be in order. (P. 123; Cong. Record, p. 16168.)

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